

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY MAY 7, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1455

Introduced by Assembly Member Hill

(Principal coauthor: Senator Leno)

(Coauthors: Assembly Members Gilmore, Hagman, Jones, Ma, Miller, and Nielsen)

(Coauthors: Senators Alquist, Liu, Romero, and Simitian Coauthor: Senator Benoit)

February 27, 2009

An act to ~~add Section 78016.6 to the Education Code amend, repeal, and add Section 11100 of, and to add and repeal Section 11100.02 of, the Health and Safety Code, relating to the San Mateo County Community College District controlled substances.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1455, as amended, Hill. ~~San Mateo County Community College District Baccalaureate Partnership Act. Ephedrine: retail sale.~~

(1) Existing law classifies controlled substances into 5 schedules, with the most restrictive limitations placed on controlled substances classified in Schedule I, and the least restrictive limitations placed on controlled substances classified in Schedule V. A controlled substance

in any of the schedules may be possessed or dispensed only upon a lawful prescription, as specified. Existing law does not classify ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within any of these 5 schedules, but provides that it is a crime, punishable as specified, for a person in this state who engages in specified transactions involving those drugs to fail to submit a report to the Department of Justice of all of those transactions, or to fail to submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice, as specified. Existing law prohibits the sale of more than 3 packages or 9 grams of a nonprescription product containing ephedrine or the other drugs, as specified.

This bill would instead provide that it is a misdemeanor, punishable as specified, for any retail distributor, except pursuant to a valid prescription from a licensed practitioner with prescriptive authority, to sell or distribute to a person specified amounts of nonprescription products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within specified time limits, to sell or distribute any of those substances to a person whose information has generated an alert, or, except under specified conditions, to sell or distribute to any purchaser a nonprescription product containing any amount of those substances. The bill would contain provisions requiring the secure storage of products containing any amount of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and providing for the creation of an electronic authorization and monitoring system for the collection of, access to, and sharing of information regarding these transactions, as specified. The bill's provisions would remain in effect only until January 1, 2017. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college district governing boards, and authorizes these districts to~~

~~provide instruction at community college campuses throughout the state.~~

~~Existing law establishes the California Community College Baccalaureate Partnership Program to encourage baccalaureate degree-granting institutions to partner with community colleges to offer baccalaureate degree programs entirely on participating community college campuses and provides for up to 2 grants, not to exceed \$50,000 each, to collaboratives formed for this purpose.~~

~~This bill would establish the San Mateo County Community College District Baccalaureate Partnership Program to encourage baccalaureate degree-granting institutions to partner with the San Mateo County Community College District to offer baccalaureate degree programs on the district's community college campuses.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11100 of the Health and Safety Code is
- 2 amended to read:
- 3 11100. (a) Any manufacturer, wholesaler, retailer, or other
- 4 person or entity in this state that sells, transfers, or otherwise
- 5 furnishes any of the following substances to any person or entity
- 6 in this state or any other state shall submit a report to the
- 7 Department of Justice of all of those transactions:
- 8 (1) Phenyl-2-propanone.
- 9 (2) Methylamine.
- 10 (3) Ethylamine.
- 11 (4) D-lysergic acid.
- 12 (5) Ergotamine tartrate.
- 13 (6) Diethyl malonate.
- 14 (7) Malonic acid.
- 15 (8) Ethyl malonate.
- 16 (9) Barbituric acid.
- 17 (10) Piperidine.
- 18 (11) N-acetylanthranilic acid.
- 19 (12) Pyrrolidine.
- 20 (13) Phenylacetic acid.
- 21 (14) Anthranilic acid.
- 22 (15) Morpholine.

- 1 (16) Ephedrine.
- 2 (17) Pseudoephedrine.
- 3 (18) Norpseudoephedrine.
- 4 (19) Phenylpropanolamine.
- 5 (20) Propionic anhydride.
- 6 (21) Isosafrole.
- 7 (22) Safrole.
- 8 (23) Piperonal.
- 9 (24) Thionylchloride.
- 10 (25) Benzyl cyanide.
- 11 (26) Ergonovine maleate.
- 12 (27) N-methylephedrine.
- 13 (28) N-ethylephedrine.
- 14 (29) N-methylpseudoephedrine.
- 15 (30) N-ethylpseudoephedrine.
- 16 (31) Chloroephedrine.
- 17 (32) Chloropseudoephedrine.
- 18 (33) Hydriodic acid.
- 19 (34) Gamma-butyrolactone, including butyrolactone;
20 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
21 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
22 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;
23 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone
24 with Chemical Abstract Service number (96-48-0).
- 25 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;
26 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
27 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
28 1,4-diol with Chemical Abstract Service number (110-63-4).
- 29 (36) Red phosphorus, including white phosphorus,
30 hypophosphorous acid and its salts, ammonium hypophosphite,
31 calcium hypophosphite, iron hypophosphite, potassium
32 hypophosphite, manganese hypophosphite, magnesium
33 hypophosphite, sodium hypophosphite, and phosphorous acid and
34 its salts.
- 35 (37) Iodine or tincture of iodine.
- 36 (38) Any of the substances listed by the Department of Justice
37 in regulations promulgated pursuant to subdivision (b).
- 38 (b) The Department of Justice may adopt rules and regulations
39 in accordance with Chapter 3.5 (commencing with Section 11340)
40 of Part 1 of Division 3 of Title 2 of the Government Code that add

1 substances to subdivision (a) if the substance is a precursor to a
2 controlled substance and delete substances from subdivision (a).
3 However, no regulation adding or deleting a substance shall have
4 any effect beyond March 1 of the year following the calendar year
5 during which the regulation was adopted.

6 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other
7 person or entity in this state, prior to selling, transferring, or
8 otherwise furnishing any substance specified in subdivision (a) to
9 any person or business entity in this state or any other state, shall
10 require ~~(A)~~ (i) a letter of authorization from that person or business
11 entity that includes the currently valid business license number or
12 federal Drug Enforcement Administration (DEA) registration
13 number, the address of the business, and a full description of how
14 the substance is to be used, and ~~(B)~~ (ii) proper identification from
15 the purchaser. The manufacturer, wholesaler, retailer, or other
16 person or entity in this state shall retain this information in a readily
17 available manner for three years. The requirement for a full
18 description of how the substance is to be used does not require the
19 person or business entity to reveal their chemical processes that
20 are typically considered trade secrets and proprietary information.

21 (B) For the purposes of this paragraph, “proper identification”
22 for in-state or out-of-state purchasers includes two or more of the
23 following: federal tax identification number; seller’s permit
24 identification number; city or county business license number;
25 license issued by the ~~California~~ State Department of *Public Health*
26 ~~Services~~; registration number issued by the Federal Drug
27 Enforcement Administration; precursor business permit number
28 issued by the Bureau of Narcotic Enforcement of the ~~California~~
29 Department of Justice; driver’s license; or other identification
30 issued by a state.

31 (2) (A) Any manufacturer, wholesaler, retailer, or other person
32 or entity in this state that exports a substance specified in
33 subdivision (a) to any person or business entity located in a foreign
34 country shall, on or before the date of exportation, submit to the
35 Department of Justice a notification of that transaction, which
36 notification shall include the name and quantity of the substance
37 to be exported and the name, address, and, if assigned by the
38 foreign country or subdivision thereof, business identification
39 number of the person or business entity located in a foreign country
40 importing the substance.

1 (B) The department may authorize the submission of the
2 notification on a monthly basis with respect to repeated, regular
3 transactions between an exporter and an importer involving a
4 substance specified in subdivision (a), if the department determines
5 that a pattern of regular supply of the substance exists between the
6 exporter and importer and that the importer has established a record
7 of utilization of the substance for lawful purposes.

8 (d) (1) Any manufacturer, wholesaler, retailer, or other person
9 or entity in this state that sells, transfers, or otherwise furnishes a
10 substance specified in subdivision (a) to a person or business entity
11 in this state or any other state shall, not less than 21 days prior to
12 delivery of the substance, submit a report of the transaction, which
13 includes the identification information specified in subdivision
14 (c), to the Department of Justice. The Department of Justice may
15 authorize the submission of the reports on a monthly basis with
16 respect to repeated, regular transactions between the furnisher and
17 the recipient involving the substance or substances if the
18 Department of Justice determines that a pattern of regular supply
19 of the substance or substances exists between the manufacturer,
20 wholesaler, retailer, or other person or entity that sells, transfers,
21 or otherwise furnishes the substance or substances and the recipient
22 of the substance or substances, and the recipient has established a
23 record of utilization of the substance or substances for lawful
24 purposes.

25 (2) The person selling, transferring, or otherwise furnishing any
26 substance specified in subdivision (a) shall affix his or her signature
27 or otherwise identify himself or herself as a witness to the
28 identification of the purchaser or purchasing individual, and shall,
29 if a common carrier is used, maintain a manifest of the delivery
30 to the purchaser for three years.

31 (e) This section shall not apply to any of the following:

32 (1) Any pharmacist or other authorized person who sells or
33 furnishes a substance upon the prescription of a physician, dentist,
34 podiatrist, or veterinarian.

35 (2) Any physician, dentist, podiatrist, or veterinarian who
36 administers or furnishes a substance to his or her patients.

37 (3) Any manufacturer or wholesaler licensed by the California
38 State Board of Pharmacy that sells, transfers, or otherwise furnishes
39 a substance to a licensed pharmacy, physician, dentist, podiatrist,
40 or veterinarian, or a retail distributor as defined in subdivision (h),

1 provided that the manufacturer or wholesaler submits records of
2 any suspicious sales or transfers as determined by the Department
3 of Justice.

4 (4) Any analytical research facility that is registered with the
5 federal Drug Enforcement Administration of the United States
6 Department of Justice.

7 (5) A state-licensed health care facility that administers or
8 furnishes a substance to its patients.

9 (6) (A) Any sale, transfer, furnishing, or receipt of any product
10 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
11 or phenylpropanolamine and which is lawfully sold, transferred,
12 or furnished over the counter without a prescription pursuant to
13 the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et
14 seq.) or regulations adopted thereunder. However, this section
15 shall apply to preparations in solid or liquid dosage form, except
16 pediatric liquid forms, as defined, containing ephedrine,
17 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
18 where the individual transaction involves more than three packages
19 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
20 or phenylpropanolamine.

21 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
22 phenylpropanolamine product subsequently removed from
23 exemption pursuant to Section 814 of Title 21 of the United States
24 Code shall similarly no longer be exempt from any state reporting
25 or permitting requirement, unless otherwise reinstated pursuant to
26 subdivision (d) or (e) of Section 814 of Title 21 of the United States
27 Code as an exempt product.

28 (7) The sale, transfer, furnishing, or receipt of any betadine or
29 povidone solution with an iodine content not exceeding 1 percent
30 in containers of eight ounces or less, or any tincture of iodine not
31 exceeding 2 percent in containers of one ounce or less, that is sold
32 over the counter.

33 (8) Any transfer of a substance specified in subdivision (a) for
34 purposes of lawful disposal as waste.

35 (f) (1) Any person specified in subdivision (a) or (d) who does
36 not submit a report as required by that subdivision or who
37 knowingly submits a report with false or fictitious information
38 shall be punished by imprisonment in a county jail not exceeding
39 six months, by a fine not exceeding five thousand dollars (\$5,000),
40 or by both the fine and imprisonment.

(2) Any person specified in subdivision (a) or (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or by both the fine and imprisonment.

(g) (1) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any manufacturer, wholesaler, retailer, or other person to sell, transfer, or otherwise furnish a substance specified in subdivision (a) to a person under 18 years of age.

(2) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any person under 18 years of age to possess a substance specified in subdivision (a).

~~(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.); or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.~~

~~(4)~~

(3) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

~~(h) For the purposes of this article, the following terms have the following meanings:~~

1 (1) ~~“Drug store” is any entity described in Code 5912 of the~~
2 ~~Standard Industrial Classification (SIC) Manual published by the~~
3 ~~United States Office of Management and Budget, 1987 edition.~~

4 (2) ~~“General merchandise store” is any entity described in Codes~~
5 ~~5311 to 5399, inclusive, and Code 5499 of the Standard Industrial~~
6 ~~Classification (SIC) Manual published by the United States Office~~
7 ~~of Management and Budget, 1987 edition.~~

8 (3) ~~“Grocery store” is any entity described in Code 5411 of the~~
9 ~~Standard Industrial Classification (SIC) Manual published by the~~
10 ~~United States Office of Management and Budget, 1987 edition.~~

11 (4) ~~“Pediatric liquid” means a nonencapsulated liquid whose~~
12 ~~unit measure according to product labeling is stated in milligrams,~~
13 ~~ounces, or other similar measure. In no instance shall the dosage~~
14 ~~units exceed 15 milligrams of phenylpropanolamine or~~
15 ~~pseudoephedrine per five milliliters of liquid product, except for~~
16 ~~liquid products primarily intended for administration to children~~
17 ~~under two years of age for which the recommended dosage unit~~
18 ~~does not exceed two milliliters and the total package content does~~
19 ~~not exceed one fluid ounce.~~

20 (5) ~~“Retail distributor” means a grocery store, general~~
21 ~~merchandise store, drugstore, or other related entity, the activities~~
22 ~~of which, as a distributor of ephedrine, pseudoephedrine,~~
23 ~~norpseudoephedrine, or phenylpropanolamine products, are limited~~
24 ~~exclusively to the sale of ephedrine, pseudoephedrine,~~
25 ~~norpseudoephedrine, or phenylpropanolamine products for personal~~
26 ~~use both in number of sales and volume of sales, either directly to~~
27 ~~walk-in customers or in face-to-face transactions by direct sales.~~
28 ~~“Retail distributor” includes an entity that makes a direct sale, but~~
29 ~~does not include the parent company of that entity if the company~~
30 ~~is not involved in direct sales regulated by this article.~~

31 (6) ~~“Sale for personal use” means the sale in a single transaction~~
32 ~~to an individual customer for a legitimate medical use of a product~~
33 ~~containing ephedrine, pseudoephedrine, norpseudoephedrine, or~~
34 ~~phenylpropanolamine in dosages at or below that specified in~~
35 ~~paragraph (3) of subdivision (g). “Sale for personal use” also~~
36 ~~includes the sale of those products to employers to be dispensed~~
37 ~~to employees from first-aid kits or medicine chests.~~

38 (i) ~~It is the intent of the Legislature that this section shall~~
39 ~~preempt all local ordinances or regulations governing the sale by~~
40 ~~a retail distributor of over-the-counter products containing~~

1 ephedrine, ~~pseudoephedrine, norpseudoephedrine, or~~
2 ~~phenylpropanolamine.~~

3 *(h) This section shall remain in effect only until January 1, 2017,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2017, deletes or extends that date.*

6 SEC. 2. Section 11100 is added to the Health and Safety Code,
7 to read:

8 11100. (a) Any manufacturer, wholesaler, retailer, or other
9 person or entity in this state that sells, transfers, or otherwise
10 furnishes any of the following substances to any person or entity
11 in this state or any other state shall submit a report to the
12 Department of Justice of all of those transactions:

- 13 (1) Phenyl-2-propanone.
- 14 (2) Methylamine.
- 15 (3) Ethylamine.
- 16 (4) D-lysergic acid.
- 17 (5) Ergotamine tartrate.
- 18 (6) Diethyl malonate.
- 19 (7) Malonic acid.
- 20 (8) Ethyl malonate.
- 21 (9) Barbituric acid.
- 22 (10) Piperidine.
- 23 (11) N-acetylanthranilic acid.
- 24 (12) Pyrrolidine.
- 25 (13) Phenylacetic acid.
- 26 (14) Anthranilic acid.
- 27 (15) Morpholine.
- 28 (16) Ephedrine.
- 29 (17) Pseudoephedrine.
- 30 (18) Norpseudoephedrine.
- 31 (19) Phenylpropanolamine.
- 32 (20) Propionic anhydride.
- 33 (21) Isosafrole.
- 34 (22) Safrole.
- 35 (23) Piperonal.
- 36 (24) Thionylchloride.
- 37 (25) Benzyl cyanide.
- 38 (26) Ergonovine maleate.
- 39 (27) N-methylephedrine.
- 40 (28) N-ethylephedrine.

1 (29) *N*-methylpseudoephedrine.

2 (30) *N*-ethylpseudoephedrine.

3 (31) Chloroephedrine.

4 (32) Chloropseudoephedrine.

5 (33) Hydriodic acid.

6 (34) Gamma-butyrolactone, including butyrolactone;
7 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
8 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
9 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;
10 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone
11 with Chemical Abstract Service number (96-48-0).

12 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;
13 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
14 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
15 1,4-diol with Chemical Abstract Service number (110-63-4).

16 (36) Red phosphorus, including white phosphorus,
17 hypophosphorous acid and its salts, ammonium hypophosphite,
18 calcium hypophosphite, iron hypophosphite, potassium
19 hypophosphite, manganese hypophosphite, magnesium
20 hypophosphite, sodium hypophosphite, and phosphorous acid and
21 its salts.

22 (37) Iodine or tincture of iodine.

23 (38) Any of the substances listed by the Department of Justice
24 in regulations promulgated pursuant to subdivision (b).

25 (b) The Department of Justice may adopt rules and regulations
26 in accordance with Chapter 3.5 (commencing with Section 11340)
27 of Part 1 of Division 3 of Title 2 of the Government Code that add
28 substances to subdivision (a) if the substance is a precursor to a
29 controlled substance and delete substances from subdivision (a).
30 However, no regulation adding or deleting a substance shall have
31 any effect beyond March 1 of the year following the calendar year
32 during which the regulation was adopted.

33 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other
34 person or entity in this state, prior to selling, transferring, or
35 otherwise furnishing any substance specified in subdivision (a) to
36 any person or business entity in this state or any other state, shall
37 require (i) a letter of authorization from that person or business
38 entity that includes the currently valid business license number or
39 federal Drug Enforcement Administration (DEA) registration
40 number, the address of the business, and a full description of how

1 *the substance is to be used, and (ii) proper identification from the*
2 *purchaser. The manufacturer, wholesaler, retailer, or other person*
3 *or entity in this state shall retain this information in a readily*
4 *available manner for three years. The requirement for a full*
5 *description of how the substance is to be used does not require the*
6 *person or business entity to reveal their chemical processes that*
7 *are typically considered trade secrets and proprietary information.*

8 *(B) For the purposes of this paragraph, “proper identification”*
9 *for in-state or out-of-state purchasers includes two or more of the*
10 *following: federal tax identification number; seller’s permit*
11 *identification number; city or county business license number;*
12 *license issued by the State Department of Public Health;*
13 *registration number issued by the Federal Drug Enforcement*
14 *Administration; precursor business permit number issued by the*
15 *Bureau of Narcotic Enforcement of the Department of Justice;*
16 *driver’s license; or other identification issued by a state.*

17 *(2) (A) Any manufacturer, wholesaler, retailer, or other person*
18 *or entity in this state that exports a substance specified in*
19 *subdivision (a) to any person or business entity located in a foreign*
20 *country shall, on or before the date of exportation, submit to the*
21 *Department of Justice a notification of that transaction, which*
22 *notification shall include the name and quantity of the substance*
23 *to be exported and the name, address, and, if assigned by the*
24 *foreign country or subdivision thereof, business identification*
25 *number of the person or business entity located in a foreign country*
26 *importing the substance.*

27 *(B) The department may authorize the submission of the*
28 *notification on a monthly basis with respect to repeated, regular*
29 *transactions between an exporter and an importer involving a*
30 *substance specified in subdivision (a), if the department determines*
31 *that a pattern of regular supply of the substance exists between*
32 *the exporter and importer and that the importer has established*
33 *a record of utilization of the substance for lawful purposes.*

34 *(d) (1) Any manufacturer, wholesaler, retailer, or other person*
35 *or entity in this state that sells, transfers, or otherwise furnishes*
36 *a substance specified in subdivision (a) to a person or business*
37 *entity in this state or any other state shall, not less than 21 days*
38 *prior to delivery of the substance, submit a report of the*
39 *transaction, which includes the identification information specified*
40 *in subdivision (c), to the Department of Justice. The Department*

1 of Justice may authorize the submission of the reports on a monthly
2 basis with respect to repeated, regular transactions between the
3 furnisher and the recipient involving the substance or substances
4 if the Department of Justice determines that a pattern of regular
5 supply of the substance or substances exists between the
6 manufacturer, wholesaler, retailer, or other person or entity that
7 sells, transfers, or otherwise furnishes the substance or substances
8 and the recipient of the substance or substances, and the recipient
9 has established a record of utilization of the substance or
10 substances for lawful purposes.

11 (2) The person selling, transferring, or otherwise furnishing
12 any substance specified in subdivision (a) shall affix his or her
13 signature or otherwise identify himself or herself as a witness to
14 the identification of the purchaser or purchasing individual, and
15 shall, if a common carrier is used, maintain a manifest of the
16 delivery to the purchaser for three years.

17 (e) This section shall not apply to any of the following:

18 (1) Any pharmacist or other authorized person who sells or
19 furnishes a substance upon the prescription of a physician, dentist,
20 podiatrist, or veterinarian.

21 (2) Any physician, dentist, podiatrist, or veterinarian who
22 administers or furnishes a substance to his or her patients.

23 (3) Any manufacturer or wholesaler licensed by the California
24 State Board of Pharmacy that sells, transfers, or otherwise
25 furnishes a substance to a licensed pharmacy, physician, dentist,
26 podiatrist, or veterinarian, or a retail distributor as defined in
27 subdivision (h), provided that the manufacturer or wholesaler
28 submits records of any suspicious sales or transfers as determined
29 by the Department of Justice.

30 (4) Any analytical research facility that is registered with the
31 federal Drug Enforcement Administration of the United States
32 Department of Justice.

33 (5) A state-licensed health care facility that administers or
34 furnishes a substance to its patients.

35 (6) (A) Any sale, transfer, furnishing, or receipt of any product
36 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
37 or phenylpropanolamine and which is lawfully sold, transferred,
38 or furnished over the counter without a prescription pursuant to
39 the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et
40 seq.) or regulations adopted thereunder. However, this section

1 shall apply to preparations in solid or liquid dosage form, except
2 pediatric liquid forms, as defined, containing ephedrine,
3 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
4 where the individual transaction involves more than three packages
5 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
6 or phenylpropanolamine.

7 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
8 phenylpropanolamine product subsequently removed from
9 exemption pursuant to Section 814 of Title 21 of the United States
10 Code shall similarly no longer be exempt from any state reporting
11 or permitting requirement, unless otherwise reinstated pursuant
12 to subdivision (d) or (e) of Section 814 of Title 21 of the United
13 States Code as an exempt product.

14 (7) The sale, transfer, furnishing, or receipt of any betadine or
15 povidone solution with an iodine content not exceeding 1 percent
16 in containers of eight ounces or less, or any tincture of iodine not
17 exceeding 2 percent in containers of one ounce or less, that is sold
18 over the counter.

19 (8) Any transfer of a substance specified in subdivision (a) for
20 purposes of lawful disposal as waste.

21 (f) (1) Any person specified in subdivision (a) or (d) who does
22 not submit a report as required by that subdivision or who
23 knowingly submits a report with false or fictitious information
24 shall be punished by imprisonment in a county jail not exceeding
25 six months, by a fine not exceeding five thousand dollars (\$5,000),
26 or by both the fine and imprisonment.

27 (2) Any person specified in subdivision (a) or (d) who has
28 previously been convicted of a violation of paragraph (1) shall,
29 upon a subsequent conviction thereof, be punished by imprisonment
30 in the state prison, or by imprisonment in a county jail not
31 exceeding one year, by a fine not exceeding one hundred thousand
32 dollars (\$100,000), or by both the fine and imprisonment.

33 (g) (1) Except as otherwise provided in subparagraph (A) of
34 paragraph (6) of subdivision (e), it is unlawful for any
35 manufacturer, wholesaler, retailer, or other person to sell, transfer,
36 or otherwise furnish a substance specified in subdivision (a) to a
37 person under 18 years of age.

38 (2) Except as otherwise provided in subparagraph (A) of
39 paragraph (6) of subdivision (e), it is unlawful for any person

1 *under 18 years of age to possess a substance specified in*
2 *subdivision (a).*

3 *(3) Notwithstanding any other law, it is unlawful for any retail*
4 *distributor to (A) sell in a single transaction more than three*
5 *packages of a product that he or she knows to contain ephedrine,*
6 *pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,*
7 *or (B) knowingly sell more than nine grams of ephedrine,*
8 *pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,*
9 *other than pediatric liquids as defined. Except as otherwise*
10 *provided in this section, the three package per transaction*
11 *limitation or nine gram per transaction limitation imposed by this*
12 *paragraph shall apply to any product that is lawfully sold,*
13 *transferred, or furnished over the counter without a prescription*
14 *pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C.*
15 *Sec. 301 et seq.), or regulations adopted thereunder, unless*
16 *exempted from the requirements of the federal Controlled*
17 *Substances Act by the federal Drug Enforcement Administration*
18 *pursuant to Section 814 of Title 21 of the United States Code.*

19 *(4) (A) A first violation of this subdivision is a misdemeanor.*

20 *(B) Any person who has previously been convicted of a violation*
21 *of this subdivision shall, upon a subsequent conviction thereof, be*
22 *punished by imprisonment in a county jail not exceeding one year,*
23 *by a fine not exceeding ten thousand dollars (\$10,000), or by both*
24 *the fine and imprisonment.*

25 *(h) For the purposes of this article, the following terms have*
26 *the following meanings:*

27 *(1) "Drug store" is any entity described in Code 5912 of the*
28 *Standard Industrial Classification (SIC) Manual published by the*
29 *United States Office of Management and Budget, 1987 edition.*

30 *(2) "General merchandise store" is any entity described in*
31 *Codes 5311 to 5399, inclusive, and Code 5499 of the Standard*
32 *Industrial Classification (SIC) Manual published by the United*
33 *States Office of Management and Budget, 1987 edition.*

34 *(3) "Grocery store" is any entity described in Code 5411 of the*
35 *Standard Industrial Classification (SIC) Manual published by the*
36 *United States Office of Management and Budget, 1987 edition.*

37 *(4) "Pediatric liquid" means a nonencapsulated liquid whose*
38 *unit measure according to product labeling is stated in milligrams,*
39 *ounces, or other similar measure. In no instance shall the dosage*
40 *units exceed 15 milligrams of phenylpropanolamine or*

1 *pseudoephedrine per five milliliters of liquid product, except for*
2 *liquid products primarily intended for administration to children*
3 *under two years of age for which the recommended dosage unit*
4 *does not exceed two milliliters and the total package content does*
5 *not exceed one fluid ounce.*

6 (5) “Retail distributor” means a grocery store, general
7 merchandise store, drugstore, or other related entity, the activities
8 of which, as a distributor of ephedrine, pseudoephedrine,
9 norpseudoephedrine, or phenylpropanolamine products, are limited
10 exclusively to the sale of ephedrine, pseudoephedrine,
11 norpseudoephedrine, or phenylpropanolamine products for
12 personal use both in number of sales and volume of sales, either
13 directly to walk-in customers or in face-to-face transactions by
14 direct sales. “Retail distributor” includes an entity that makes a
15 direct sale, but does not include the parent company of that entity
16 if the company is not involved in direct sales regulated by this
17 article.

18 (6) “Sale for personal use” means the sale in a single
19 transaction to an individual customer for a legitimate medical use
20 of a product containing ephedrine, pseudoephedrine,
21 norpseudoephedrine, or phenylpropanolamine in dosages at or
22 below that specified in paragraph (3) of subdivision (g). “Sale for
23 personal use” also includes the sale of those products to employers
24 to be dispensed to employees from first-aid kits or medicine chests.

25 (i) It is the intent of the Legislature that this section shall
26 preempt all local ordinances or regulations governing the sale by
27 a retail distributor of over-the-counter products containing
28 ephedrine, pseudoephedrine, norpseudoephedrine, or
29 phenylpropanolamine.

30 (j) This section shall become operative on January 1, 2017.

31 SEC. 3. Section 11100.02 is added to the Health and Safety
32 Code, to read:

33 11100.02. (a) Notwithstanding any other law, it is unlawful
34 for any retail distributor to knowingly do the following, except
35 pursuant to a valid prescription from a licensed practitioner with
36 prescriptive authority:

37 (1) To sell or distribute to the same purchaser within any 30-day
38 period more than nine grams, or within any 24-hour period more
39 than 3.6 grams, of ephedrine base, pseudoephedrine base,
40 norpseudoephedrine base, or phenylpropanolamine base contained

1 *in any product that is lawfully sold, transferred, or furnished over*
2 *the counter without a prescription pursuant to the federal Food,*
3 *Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations*
4 *adopted thereunder, unless exempted from the requirements of the*
5 *federal Controlled Substances Act by the federal Drug Enforcement*
6 *Administration pursuant to Section 814 of Title 21 of the United*
7 *States Code.*

8 *(2) To sell or distribute any ephedrine, pseudoephedrine,*
9 *norpseudoephedrine or phenylpropanolamine to a person whose*
10 *information has generated an alert as described in paragraph (3)*
11 *of subdivision (e) regarding that sale.*

12 *(3) To sell or distribute to any purchaser a nonprescription*
13 *product containing any amount of ephedrine, pseudoephedrine,*
14 *norpseudoephedrine, or phenylpropanolamine, except under the*
15 *following conditions:*

16 *(A) The purchaser shall produce a valid federal- or state-issued*
17 *identification or document relating to identification that is*
18 *acceptable for purposes of Section 274a.2(b)(1)(v)(A) or Section*
19 *274a.2(b)(1)(v)(B) of Title 8 of the Code of Federal Regulations,*
20 *in effect on or after March 9, 2006.*

21 *(B) The purchaser shall sign a written or electronic log showing*
22 *the following:*

23 *(i) The date of the transaction.*

24 *(ii) The identification number presented.*

25 *(iii) The agency issuing the identification and the type of*
26 *identification issued.*

27 *(iv) The name, date of birth, and address of the purchaser.*

28 *(v) The amount of ephedrine base, pseudoephedrine base,*
29 *norpseudoephedrine base, or phenylpropanolamine base contained*
30 *in the material, compound, mixture, or preparation sold.*

31 *(b) The retail distributor shall store any product containing any*
32 *amount of ephedrine, pseudoephedrine, norpseudoephedrine, or*
33 *phenylpropanolamine either behind-the-counter or in a locked*
34 *cabinet so that the customer does not have access to the product.*

35 *(c) (1) To facilitate the monitoring of the sales of*
36 *nonprescription products containing ephedrine, pseudoephedrine,*
37 *norpseudoephedrine, or phenylpropanolamine, the retail*
38 *distributor shall record all of the following information at the point*
39 *of sale regarding the proposed transaction:*

40 *(A) The date of the transaction.*

1 (B) The identification number of the purchaser, issuing agency
2 of the identification, and the type of identification used.

3 (C) The name, date of birth, and address of the purchaser
4 verified through a photo identification of the purchaser.

5 (D) The name, quantity of packages, and total gram weight of
6 ephedrine base, pseudoephedrine base, norpseudoephedrine base,
7 or phenylpropanolamine base contained in a product or products
8 purchased, received, or otherwise acquired.

9 (E) The name or initials of the person making the sale.

10 (2) Upon recording the transaction information, the retail
11 distributor shall transmit the information immediately to the
12 electronic authorization and monitoring system for purposes of
13 determining whether the proposed sale would violate this section
14 and therefore may not proceed.

15 (3) This subdivision shall not be construed to require a retail
16 distributor to maintain state-required records relating to the sale
17 of products containing ephedrine, pseudoephedrine,
18 norpseudoephedrine, or phenylpropanolamine in a separate
19 location or log from records required by federal law to be kept
20 with respect to those products.

21 (d) (1) The Bureau of Narcotic Enforcement shall enter into a
22 memorandum of understanding (MOU) with the National
23 Association of Drug Diversion Investigators or other comparable
24 organization to provide retail distributors of products containing
25 ephedrine, pseudoephedrine, norpseudoephedrine, or
26 phenylpropanolamine in this state with access to an electronic
27 authorization and monitoring system for the sale of those products.

28 (2) The system shall allow retail distributors of products
29 containing ephedrine, pseudoephedrine, norpseudoephedrine, or
30 phenylpropanolamine to enter into the database the information
31 specified in subdivision (d) regarding the proposed sale of those
32 products.

33 (3) The system shall be capable of providing the retail
34 distributor with an immediate real-time alert any time any
35 provision of this section is being violated by a proposed sale.

36 (4) Neither the bureau nor any state agency shall bear any cost
37 for the development, installation, or maintenance of the system.

38 (5) The state shall impose no fee on a retail distributor or
39 manufacturer to defray administrative or other costs for oversight
40 or use of the system.

1 (e) *The bureau is authorized to enter into a cooperative*
2 *endeavor, MOU, contract, or any other agreement with any other*
3 *law enforcement agency in order to provide instant access to the*
4 *information collected under this section regarding the sale of*
5 *products containing ephedrine, pseudoephedrine,*
6 *norpseudoephedrine, or phenylpropanolamine.*

7 (f) *This section shall not apply to a health care practitioner with*
8 *prescriptive authority who is currently licensed in this state.*

9 (g) (1) *A first violation of this section is a misdemeanor.*

10 (2) *Any person who has previously been convicted of a violation*
11 *of this section shall, upon a subsequent conviction thereof, be*
12 *punished by imprisonment in a county jail not exceeding one year;*
13 *by a fine not exceeding ten thousand dollars (\$10,000), or by both*
14 *the fine and imprisonment.*

15 (h) *For the purposes of this section, the following terms have*
16 *the following meanings:*

17 (1) *“Bureau” means Bureau of Narcotic Enforcement of the*
18 *Department of Justice.*

19 (2) *“Drug store” is any entity described in Code 5912 of the*
20 *Standard Industrial Classification (SIC) Manual published by the*
21 *United States Office of Management and Budget, 1987 edition.*

22 (3) *“General merchandise store” is any entity described in*
23 *Codes 5311 to 5399, inclusive, and Code 5499 of the Standard*
24 *Industrial Classification (SIC) Manual published by the United*
25 *States Office of Management and Budget, 1987 edition.*

26 (4) *“Grocery store” is any entity described in Code 5411 of the*
27 *Standard Industrial Classification (SIC) Manual published by the*
28 *United States Office of Management and Budget, 1987 edition.*

29 (5) *“Retail distributor” means a grocery store, general*
30 *merchandise store, drugstore, or other related entity, the activities*
31 *of which, as a distributor of ephedrine, pseudoephedrine,*
32 *norpseudoephedrine, or phenylpropanolamine products, are limited*
33 *exclusively to the sale of ephedrine, pseudoephedrine,*
34 *norpseudoephedrine, or phenylpropanolamine products for*
35 *personal use both in number of sales and volume of sales, either*
36 *directly to walk-in customers or in face-to-face transactions by*
37 *direct sales. “Retail distributor” includes an entity that makes a*
38 *direct sale, but does not include the parent company of that entity*
39 *if the company is not involved in direct sales regulated by this*
40 *article.*

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in amounts at or below that specified in subdivision (a). “Sale for personal use” also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(i) The provisions of this section shall not become operative unless all of the following conditions have been met:

(1) The Bureau of Narcotic Enforcement enters into a MOU with the National Association of Drug Diversion Investigators or other comparable organization, as set forth in subdivision (d).

(2) The Bureau of Narcotic Enforcement determines that a substantial number of retail distributors have access to the electronic authorization and monitoring system pursuant to the provisions of the MOU.

(3) A period of 180 days has expired from the date the bureau made the determination specified in paragraph (2).

(j) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

(k) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. (a) The Legislature finds and declares all of the following:~~

~~(1) Since its adoption in 1960, the Master Plan for Higher Education has served the state exceedingly well, allowing California to create the largest and most distinguished higher~~

1 education system in the nation. A key component of the Master
2 Plan for Higher Education is the differentiation of mission and
3 function among the three systems of higher education in the state:
4 the University of California, the California State University, and
5 the California Community Colleges.

6 (2) Until recently, this differentiation of function has allowed
7 California to provide universal access to postsecondary education
8 while preserving quality.

9 (3) Due to current economic realities and a high unemployment
10 rate in the state, tens of thousands of unemployed or
11 underemployed Californians are entering or returning to college
12 to improve job skills or to train for new careers.

13 (4) In the rapidly emerging “knowledge economy” of California,
14 it is more important than ever before that California have a
15 well-educated populace in order for the state to remain competitive
16 nationally and internationally. Several recent studies have
17 concluded that a college degree is now required for most of the
18 highest paying occupations and that, in many areas of the economy,
19 the baccalaureate degree is replacing the associate degree as the
20 entry level credential for 21st century jobs.

21 (5) Community college students who want to transfer to public
22 four-year institutions face a number of challenges: students are
23 place bound and do not have the time or money to travel to
24 four-year colleges; students are accepted, but do not get the
25 financial aid packages that make enrollment possible; each
26 four-year college or university has different entrance requirements
27 that limit student options for transfer if they are not accepted into
28 their first choice university.

29 (b) Because of these factors, the State of California supports
30 the increased use of “university centers” where the California State
31 University and the University of California partner with the
32 California Community Colleges to deliver baccalaureate degree
33 programs on community college campuses.

34 SEC. 2. Section 78016.6 is added to the Education Code, to
35 read:

36 78016.6. (a) This section shall be known and may be cited as
37 the San Mateo County Community College District Baccalaureate
38 Partnership Act. The San Mateo County Community College
39 District Baccalaureate Partnership Program is hereby established
40 to do the following:

1 ~~(1) To encourage baccalaureate degree-granting institutions to~~
2 ~~partner with the San Mateo County Community College District~~
3 ~~to offer baccalaureate degree programs that will offer instruction~~
4 ~~entirely on the district's participating campuses.~~

5 ~~(2) To bring opportunities to earn baccalaureate degrees to San~~
6 ~~Mateo County, especially within areas of the county with limited~~
7 ~~access to baccalaureate degree-granting institutions.~~

8 ~~(b) The San Mateo County Community College District is~~
9 ~~hereby authorized to seek collaborative partnerships with the~~
10 ~~University of California and the California State University for~~
11 ~~purposes of offering baccalaureate degree programs on campuses~~
12 ~~of the San Mateo County Community College District.~~

13 ~~(c) This section does not exempt any partnership program that~~
14 ~~may be proposed pursuant to this section from review by the~~
15 ~~California Postsecondary Education Commission pursuant to~~
16 ~~Section 66902 or any other applicable law.~~